



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/530,031	08/19/2005	Nobuyuki Takakuwa	8048-1099	2952
466 7590 01/11/2011 YOUNG & THOMPSON 209 Madison Street Suite 500 Alexandria, VA 22314				
EXAMINER SHIBRU, HELEN				
ART UNIT 2484		PAPER NUMBER		
NOTIFICATION DATE 01/11/2011		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DocketingDept@young-thompson.com

# Office Action Summary

## Application No.

10/530,031

## Applicant(s)

TAKAKUWA ET AL.

## Examiner

HELEN SHIBRU

## Art Unit

2484

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 08 November 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 21-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-912)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. The amendments, filed 11/08/2010, have been entered and made of record. Claims 21-35 are pending, claims 1-20 are cancelled.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 21-35 have been considered but are moot in view of the new ground(s) of rejection. See the rejection sets forth below.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 21-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kato (US PG PUB 2007/0286577) in view of Morris (US PG PUB 2001/0026561) and further in view of Yamada (US Pat. No. 6, 778, 759) and Saeiki (US Pat. No. 6, 389, 221).

Regarding claim 21, Kato discloses an information record medium on which there are recorded: a series of content information (see paragraphs 0183,

0265, content information is generated) which is constructed from at least one elementary stream and which is stored as a plurality of packets, each of the plurality of packets stores a fragment of the elementary stream (see paragraph 0461 where the prior art teaches TS contain an elementary stream; a TS is composed of plural concatenated transport packets; see paragraph 0002 each transport packet is a packetized MPEG2 video or MPEG1 audio stream; see paragraph 0245 the SESF defines an elementary stream pertinent to MPEG2 TS and AV stream; see paragraph 0241 in the AV stream file MPEG2 TS is stored; see paragraphs 0463-0464 one continuous elementary stream conforming to MPEG2 standard; see paragraph 0470, packet transmitting elementary stream; and see paragraph 0385 transport packet transmitting the number k elementary stream);

menu information, which is constructed from at least one elementary stream and which is stored in the plurality of packets , for displaying at least one menu button of which is to be superimposed on a display-screen (see paragraph 0461 where the prior art teaches TS contain elementary stream, see paragraph 0583 demultiplexer acquire elementary stream PID; see paragraph 0239 menu screen is created using PID and content of AV stream includes PID of a transport packet transmitting elementary stream) for displaying during reproduction of

said content information (see paragraphs 0255 and figure 14, see also paragraphs 0506, 0534, 0535, and 0556 displaying menu screen);

play list information for defining reproduction sequence of said content information by a unit of item, which constitutes said content information and which is accessible upon reproducing (see abstract (playlistmark), paragraphs 0222, 0267, 0286-0287 and 0340); and

said play list information including: item information for specifying each item which constitutes said content information by indicating both of a reproduction start time and a reproduction end time of the item (see paragraph 0032 where the prior art teaches mark information stored in playlist mark, see paragraph 0034 where the prior art teaches mark\_time\_stamp stores a time stamp indicating the point specified by the mark; the playitem\_id is an 8-bit field specifying the playitem where the mark is put; see abstract where the prior art discloses the recording unit recording playlist mark as table on a recording medium; see figure 133 where the prior art shows user commands mark set at favorite scene, acquiring mark PTS and PTS playitem\_id of playitem it belongs, store mark information in playlistmark; see paragraph 0649 where the prior art teaches playlistmark formed by marks pointing to a picture optionally specified by a user; see also paragraphs 0601-0605); and slave item information for specifying said menu information as a slave item (see paragraphs 0505-0506 and 0534-0535),

wherein the item information includes information which indicates an identification information of the slave item information (see paragraphs 0036 and 0405 where the prior art teaches the field of the ref\_thumbnail\_index denotes the information of the thumbnail picture added to the mark; this picture referenced using the value of reference thumbnail index in the mark thumbnail file),

each of the content information, the play list information and object information is recorded into a different area, respectively (see Kato's abstract, paragraph 0649 where the prior art teaches clipmark and playlistmark are recorded as respective independent tables on a recording medium; see paragraph 0605 where the prior art teaches playlistmark recorded in playlist file; see figure 14 which shows playlist clipinf and M2TS recorded separately),

the object information further includes indicating an address of the content information which is specified by the item information (see paragraph 0223 where the prior art teaches mark setting on the clip is by adding the address basis information indicating the picture of the mark point to the mark list; a picture referenced by the clipmark specified on the address basis in the AV stream).

Claim 21 differs from Kato in that the claim further requires object information for indicating a relationship between packets and the elementary stream of each of the content information and the menu information.

In the same field of endeavor Morris discloses the received transport stream include stream mapping information identifying a transport packet ID code associated with each elementary stream (see paragraph 0017). Morris teaches filed PID of each transport packet indicates one elementary stream to which that packet relates (see paragraph 0048). Morris further teaches programme comprises a video stream, audio stream and teletext data stream. See also paragraphs 0073-0074 where the prior art teaches PAT and PMT. Morris also discloses packetized elementary stream where the elementary stream includes padding stream, private stream or teletext (see paragraphs 0049-0050, referring to constructing menu information from elementary stream and store in packets).

Therefore in light of the teaching in Morris it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Kato by including information that relates packets and elementary stream in order to control the stream and to make random access to the stream easily.

Claim 21 further differs from the above combination in that the claim further requires the menu information includes information for indicating the number of the menu-button which is displayed on a display-screen.

In the same field of endeavor Yamada discloses menu information includes the number of button. See figure 3 and col. 11 lines 1-16 and 46-60.

Therefore in light of the teaching of Yamada it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the above combination by providing menu information which comprises the number of the menu button in order to generate the video file management information for menu and the video file data for menu (see col. 11 lines 51-60).

Claim 21 further differs from the above combination in that the claim further requires the menu-button is superimposed on a display of the content information during a reproduction of the content information, the content information and the menu information is recorded such that the reproduction of the content information which is reproduced before the display of the menu-button is kept, by controlling the content information and the menu information independently and separately, during the menu-button is superimposed on the display of the content information.

In the same field of endeavor Saeki discloses the menu image is superimposed on to the video data being displayed (see col. 27 lines 7-23); the content information and the menu information is recorded such that the reproduction of the content information which is reproduced before the display of the menu-button is kept, by controlling the content information and the menu information independently and separately, during the menu-button is superimposed on the display of the content information (see col. 25 line 31-col. 27



line 23, col. 28 lines 51-53, the video is kept when the menu is superimposed, the menu image is superimposed on to the video being displayed, that is the video is kept when displaying the menu, and activating the menu performed independently).

Therefore in light of the teaching in Saeki it would have been obvious to superimpose the menu on the video being displayed in order to display both the video and the menu together and make it possible for the user to select from the menu by the highlight processing.

*In response to Applicants' argument on page 22 last paragraph of the remark, the Examiner would like to direct Applicant's attention to the present Application paragraphs 0140 and 0141 where the Application discloses the transport stream as shown in figure 12 is transferred digitally, the tuner refers to the PAT and PMT constructed as such and thereby extracts the multiplexed packets corresponding to the desired elementary stream and decodes extracted packets. The PAT and PMT are included as the TS packets to be stored in the TS object 142. Therefore the present Application also teaches storing PAT and PMT in the TS.*

Regarding claim 22, Kato discloses menu information is displayed with being superimposed on or in place of one portion of said content information or is not displayed at all (see paragraphs 0506 and 0535).

Regarding claim 23, Kato discloses menu information specified by the slave item information is further recorded in said play list information, as common information commonly used by a plurality of slave items (see paragraphs 0222-0226, 0230 and 0267).

Regarding claim 24, Kato discloses there is further recorded reproduction control information for controlling such that said menu information specified by the slave item information is displayed with being superimposed on or in place of one portion of said content information corresponding to said menu information specified by the slave item information or is not displayed at all (see paragraphs 0534-0556).

Regarding claims 25-26, the limitation of claims 25-26 can be found in claim 21 above therefore claims 25-26 are analyzed and rejected for the same reasons as discussed in claim 21 above. See also Kato's figure 1 which shows a configuration of recording/reproducing apparatus. See also figure 18 of Saeki which shows a reproduction system. See also figure 1 of Yamada.

Regarding claim 27, Kato discloses information reproduction apparatus comprising: a reproduction device (see figure 1 recording and/or reproducing apparatus and unit 28) capable of reproducing said content information, said menu information and said play list information (see rejection of claim 21 above); a displaying and outputting device (see input/output device in figure 1) capable of

displaying and outputting said content information and said menu information (see rejection of claim 21 above); and a control device (see controller 23 in figure 1) for controlling said reproduction device to reproduce said content information and said menu information, in accordance with the item information and the slave item information included in said play list information reproduced by said reproducing device (see rejection of claim 21 above).

Morris teaches reproducing object information and a control device for controlling the reproducing device to reproduce the content information and the menu information in accordance with object information (see paragraphs 0048-0049, 0062, 0074, 0081 and figure 5).

Regarding claim 28, Kato discloses a buffer memory for maintaining said reproduced menu information in a readily displayable and outputtable condition, for a predetermined period, regardless of whether or not said reproduced menu information is displayed and outputted by said displaying and outputting device (see paragraphs 0506 and 0535, it is inherent that the menu is displayed only for a predetermined time).

Regarding claim 29, the limitation of claim 29 can be found in claims 21, 25 and 27. Therefore claim 29 is analyzed and rejected for the same reasons as discussed in claims 21, 25 and 27above.

Regarding claim 30, the limitation of claim 30 can be found in claims 21, 25 and 27. Therefore claim 30 is analyzed and rejected for the same reasons as discussed in claims 21 and 25 above.

Regarding claim 31, the limitation of claim 31 can be found in claims 21, 25 and 27. Therefore claim 31 is analyzed and rejected for the same reasons as discussed in claims 21, 25 and 27 above.

Regarding claim 32, Kato discloses a computer readable recording medium recording thereon a computer program for a record control to control a computer disposed at the information record apparatus the said program making the computer function as at least a part of the first record device and the second record device (see paragraphs 0520 and 0583).

Regarding claim 33, Kato discloses a computer readable recording medium recording thereon a computer program making the computer function as at least a part of the reproduction device, the displaying and outputting device and the control device (see figure 54 and paragraphs 0533-0565).

Regarding claim 34, Kato discloses a computer readable recording medium recording thereon a computer program making the computer function as at least a part of the first record device, the second record device, the reproduction device, the displaying and outputting device and the control device (see figure 54 and paragraphs 0533-0565).

Regarding claim 35, the limitation of claim 35 can be found in claim 21. Therefore claim 35 is analyzed and rejected for the same reasons as discussed in claim 21 above.

5. Claims 21-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kato (US PG PUB 2007/0286577) in view of Cuccia (US Pat. No. 6, 157, 673) and further in view of Yamada (US Pat. No. 6, 778, 759) and Sacki (US Pat. No. 6, 389, 221).

Regarding claim 21, Kato discloses an information record medium on which there are recorded: a series of content information (see paragraphs 0183, 0265, content information is generated) which is constructed from at least one elementary stream and which is stored as a plurality of packets, each of the plurality of packets stores a fragment of the elementary stream (see paragraph 0461 where the prior art teaches TS contain an elementary stream; a TS is composed of plural concatenated transport packets; see paragraph 0002 each transport packet is a packetized MPEG2 video or MPEG1 audio stream; see paragraph 0245 the SESF defines an elementary stream pertinent to MPEG2 TS and AV stream; see paragraph 0241 in the AV stream file MPEG2 TS is stored; see paragraphs 0463-0464 one continuous elementary stream conforming to MPEG2 standard; see paragraph 0470, packet transmitting elementary stream;

and see paragraph 0385 transport packet transmitting the number k elementary stream);

menu information, which is constructed from at least one elementary stream and which is stored in the plurality of packets , for displaying at least one menu button of which is to be superimposed on a display-screen (see paragraph 0461 where the prior art teaches TS contain elementary stream, see paragraph 0583 demultiplexer acquire elementary stream PID; see paragraph 0239 menu screen is created using PID and content of AV stream includes PID of a transport packet transmitting elementary stream) for displaying during reproduction of said content information (see paragraphs 0255 and figure 14, see also paragraphs 0506, 0534, 0535, and 0556 displaying menu screen);

play list information for defining reproduction sequence of said content information by a unit of item, which constitutes said content information and which is accessible upon reproducing (see abstract (playlistmark), paragraphs 0222, 0267, 0286-0287 and 0340); and

said play list information including: item information for specifying each item which constitutes said content information by indicating both of a reproduction start time and a reproduction end time of the item (see paragraph 0032 where the prior art teaches mark information stored in playlist mark, see paragraph 0034 where the prior art teaches mark\_time\_stamp stores a time

stamp indicating the point specified by the mark; the playitem\_id is an 8-bit field specifying the playitem where the mark is put; see abstract where the prior art discloses the recording unit recording playlist mark as table on a recording medium; see figure 133 where the prior art shows user commands mark set at favorite scene, acquiring mark PTS and PTS playitem\_id of playitem it belongs, store mark information in playlistmark; see paragraph 0649 where the prior art teaches playlistmark formed by marks pointing to a picture optionally specified by a user; see also paragraphs 0601-0605; and slave item information for specifying said menu information as a slave item (see paragraphs 0505-0506 and 0534-0535),

wherein the item information includes information which indicates an identification information of the slave item information (see paragraphs 0036 and 0405 where the prior art teaches the field of the ref\_thumbnail\_index denotes the information of the thumbnail picture added to the mark; this picture referenced using the value of reference thumbnail index in the mark thumbnail file),

each of the content information, the play list information and object information is recorded into a different area, respectively (see Kato's abstract, paragraph 0649 where the prior art teaches clipmark and playlistmark are recorded as respective independent tables on a recording medium; see paragraph 0605 where the prior art teaches playlistmark recorded in playlist file; see figure 14 which shows playlist clipinf and M2TS recorded separately),

the object information further includes indicating an address of the content information which is specified by the item information (see paragraph 0223 where the prior art teaches mark setting on the clip is by adding the address basis information indicating the picture of the mark point to the mark list; a picture referenced by the clipmark specified on the address basis in the AV stream).

Claim 21 differs from Kato in that the claim further requires object information for indicating a relationship between packets and the elementary stream of each of the content information and the menu information.

In the same field of endeavor Cuccia discloses a program map table relates the elementary stream types (video, audio, data etc) in a program to PIDs of packets containing data for that stream type (see col. 3 line 43–col. 4 line 10).

Therefore in light of the teaching in Cuccia it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Kato by including information that indicates a relationship between the elementary stream and the packets in order to access the stream without excessive delay.

Claim 21 further differs from the above combination in that the claim further requires the menu information includes information for indicating the number of the menu-button which is displayed on a display-screen.

In the same field of endeavor Yamada discloses menu information includes the number of button. See figure 3 and col. 11 lines 1–16 and 46–60.



Therefore in light of the teaching of Yamada it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the above combination by providing menu information which comprises the number of the menu button in order to generate the video file management information for menu and the video file data for menu (see col. 11 lines 51-60).

Claim 21 further differs from the above combination in that the claim further requires the menu-button is superimposed on a display of the content information during a reproduction of the content information, the content information and the menu information is recorded such that the reproduction of the content information which is reproduced before the display of the menu-button is kept, by controlling the content information and the menu information independently and separately, during the menu-button is superimposed on the display of the content information.

In the same field of endeavor Saeki discloses the menu image is superimposed on to the video data being displayed (see col. 27 lines 7-23); the content information and the menu information is recorded such that the reproduction of the content information which is reproduced before the display of the menu-button is kept, by controlling the content information and the menu information independently and separately, during the menu-button is superimposed on the display of the content information (see col. 25 line 31-col. 27

line 23, col. 28 lines 51-53, the video is kept when the menu is superimposed, the menu image is superimposed on to the video being displayed, that is the video is kept when displaying the menu, and activating the menu performed independently).

Therefore in light of the teaching in Saeki it would have been obvious to superimpose the menu on the video being displayed in order to display both the video and the menu together and make it possible for the user to select from the menu by the highlight processing.

Regarding claim 22, Kato discloses menu information is displayed with being superimposed on or in place of one portion of said content information or is not displayed at all (see paragraphs 0506 and 0535).

Regarding claim 23, Kato discloses menu information specified by the slave item information is further recorded in said play list information, as common information commonly used by a plurality of slave items (see paragraphs 0222-0226, 0230 and 0267).

Regarding claim 24, Kato discloses there is further recorded reproduction control information for controlling such that said menu information specified by the slave item information is displayed with being superimposed on or in place of one portion of said content information corresponding to said menu information

specified by the slave item information or is not displayed at all (see paragraphs 0534-0556).

Regarding claims 25-26, the limitation of claims 25-26 can be found in claim 21 above therefore claims 25-26 are analyzed and rejected for the same reasons as discussed in claim 21 above. See also Kato's figure 1 which shows a configuration of recording/reproducing apparatus. See also figure 18 of Sacki which shows a reproduction system. See also figure 1 of Yamada.

Regarding claim 27, Kato discloses information reproduction apparatus comprising: a reproduction device (see figure 1 recording and/or reproducing apparatus and unit 28) capable of reproducing said content information, said menu information and said play list information (see rejection of claim 21 above); a displaying and outputting device (see input/output device in figure 1) capable of displaying and outputting said content information and said menu information (see rejection of claim 21 above); and a control device (see controller 23 in figure 1) for controlling said reproduction device to reproduce said content information and said menu information, in accordance with the item information and the slave item information included in said play list information reproduced by said reproducing device (see rejection of claim 21 above).

Cuccia teaches reproducing object information and a control device for controlling the reproducing device to reproduce the content information and the

menu information in accordance with object information (see col. 3 line 43-col. 4 line 10, col. 4 line 37-col. 5 line 2, prior art's claim 1 decoding system, figure 2).

Regarding claim 28, Kato discloses a buffer memory for maintaining said reproduced menu information in a readily displayable and outputtable condition, for a predetermined period, regardless of whether or not said reproduced menu information is displayed and outputted by said displaying and outputting device (see paragraphs 0506 and 0535, it is inherent that the menu is displayed only for a predetermined time).

Regarding claim 29, the limitation of claim 29 can be found in claims 21, 25 and 27. Therefore claim 29 is analyzed and rejected for the same reasons as discussed in claims 21, 25 and 27 above.

Regarding claim 30, the limitation of claim 30 can be found in claims 21, 25 and 27. Therefore claim 30 is analyzed and rejected for the same reasons as discussed in claims 21 and 25 above.

Regarding claim 31, the limitation of claim 31 can be found in claims 21, 25 and 27. Therefore claim 31 is analyzed and rejected for the same reasons as discussed in claims 21, 25 and 27 above.

Regarding claim 32, Kato discloses a computer readable recording medium recording thereon a computer program for a record control to control a computer disposed at the information record apparatus the said program making the

computer function as at least a part of the first record device and the second record device (see paragraphs 0520 and 0583).

Regarding claim 33, Kato discloses a computer readable recording medium recording thereon a computer program making the computer function as at least a part of the reproduction device, the displaying and outputting device and the control device (see figure 54 and paragraphs 0533-0565).

Regarding claim 34, Kato discloses a computer readable recording medium recording thereon a computer program making the computer function as at least a part of the first record device, the second record device, the reproduction device, the displaying and outputting device and the control device (see figure 54 and paragraphs 0533-0565).

Regarding claim 35, the limitation of claim 35 can be found in claim 21. Therefore claim 35 is analyzed and rejected for the same reasons as discussed in claim 21 above.

***Claim Rejections - 35 USC § 101***

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. Claims 21-24 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The preamble of claims 21-24 indicate the claims are directed to an information record medium. "Information record medium" presumed to include both transitory and non-transitory embodiments and, as such, the claimed is presumed as being directed to non-transitory subject matter, i.e. information record medium includes transitory embodiment. In the state of the art, transitory signals are commonplace as a medium for transmitting computer instruction and thus, in the absence of any evidence to the contrary and give the broadest reasonable interpretation, the scope of a "an information record medium" covers a signal *per se*." Therefore the claims are directed to non-statutory subject matter. This rejection can be overcome by narrowing the claims to non-transitory embodiments.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Brodersen (US PG PUB 2003/0005442) teaches menu list object contains menu\_N wherein N is the total number of menus (see paragraph 0089).

Nanba (US PG PUB 2003/0081931) discloses checking total number of menus (figure 5).

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HELEN SHIBRU whose telephone

number is (571)272-7329. The examiner can normally be reached on M-F, 8:30AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, THAI Q. TRAN can be reached on (571) 272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/HELEN SHIBRU/  
Examiner, Art Unit 2484  
January 4, 2011

